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Simon Hix

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**Article (Accepted version)
(Refereed)**

Original citation:

Hix, Simon (2016) *Does the UK have influence in the EU legislative process?* [The Political Quarterly](#), 87 (2). pp. 200-208. ISSN 0032-3179

DOI: [10.1111/1467-923X.12257](https://doi.org/10.1111/1467-923X.12257)

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Available in LSE Research Online: July 2016

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Does the UK Have Influence in the EU Legislative Process?

Simon Hix

Abstract

The UK has influenced some major EU policies, such as the creation of the single market and enlargement. But how influential are the UK government and British MEPs in the day-to-day EU legislative process? To answer this question this article analyses recent data from the Council of the European Union and the European Parliament. The evidence is mixed. In the Council, in recent years the UK government has been outvoted more often than any other EU government, yet UK officials remain well-connected ‘behind the scenes’. In the European Parliament, British MEPs are now more likely to be on the losing side than are the MEPs of any other member state, yet British MEPs still win key committee chairs and *rapporteurships*. The evidence suggests that if the UK votes to remain in the EU, Britain’s political elites will need to re-engage with Brussels politics if the UK is to avoid becoming further marginalised from mainstream EU politics.

Keywords: European Union, EU Council, EU networks, European Parliament, *rapporteurs*.

One key issue in the debate about whether the UK should remain in the European Union (EU) is how much influence the UK has, or will continue to have, in the EU. The UK has certainly played a leadership role in several of the EU's major projects over the last few decades, most notably the creation of the 'single market' in the 1980s and 1990s, and the enlargement of the EU to Central and Eastern Europe in the 1990s and 2000s. On the other hand, the UK has voluntarily opted out of the Euro, the Schengen free movement zone, some aspects of justice and home affairs and police cooperation, and most recently the Fiscal Compact Treaty (2012) and the banking union.

These 'big picture' influences are perhaps easier to identify than what happens in the day-to-day legislative process in Brussels. The EU adopts approximately 100 legislative acts per year, in the form of Directives and Regulations. These cover *inter alia* the rules on the production, distribution and exchange of goods, services, capital and labour in the single market – such as financial services regulations, social and environmental standards, consumer protection standards, data protection rules, and so on – as well as EU asylum policies, international trade and aid policies, and how the EU budget is spent each year. In most of these areas, the EU now adopts laws by the co-decision (formally rebranded the Ordinary Legislative Procedure under Art.189 TFEU) procedure: where the Commission makes draft proposals, which are then amended and adopted by a qualified-majority vote (QMV) in the Council, and a simple majority in the European Parliament.

This then raises a series of questions about how influential the UK is in the EU legislative process. For example, does the UK tend to be on the winning side in votes in the EU Council? Do British MEPs tend to support or oppose legislation in

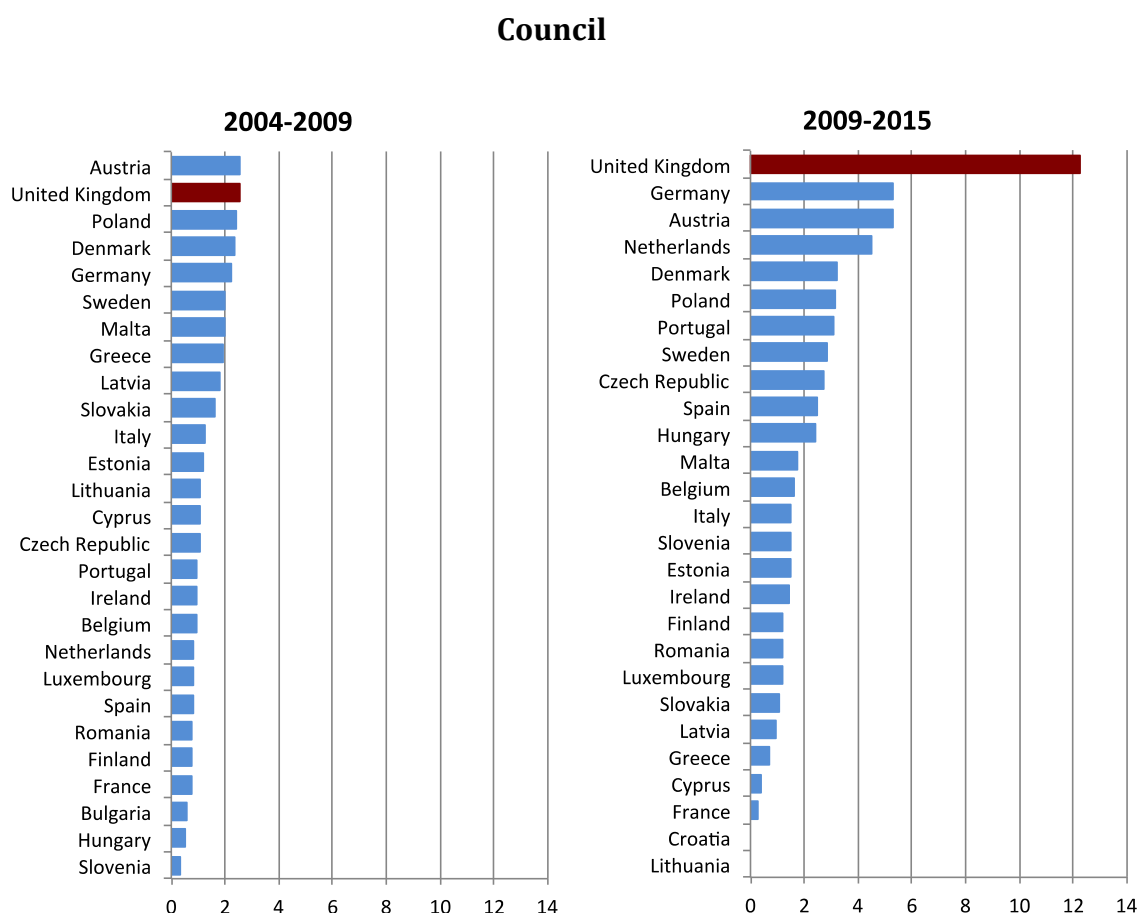
the European Parliament? And, how influential are the UK government and British MEPs in bargaining ‘behind the scenes’? This article tries to answer these questions by analysing some of the recent data from decision-making in the Council and European Parliament.

1. Voting in the Council¹

The obvious starting point for assessing whether a member state has influence in the Council is to look at the voting records in this institution. Council voting data is available from www.VoteWatch.eu, which is a not-for-profit website in Brussels.² Formally, the ministers of the 28 EU member state governments, who meet in the Council according to their policy portfolios, vote on all legislative decisions and most votes are taken by a QMV. In practice, though, the governments try to compromise, so that an agreement can be reached that all countries can support.³ Since the enlargement of the EU to 28 member states, and with the extension of QMV to almost all policy areas, reaching agreement on everything has become difficult. As a result, an increasing number of votes are taken with at least one government registering their opposition to the final decision.

This “opposition” comes in two forms: a government either formally records a No vote, or chooses simply to Abstain. Counting No votes and Abstentions together, Figure 1 shows the per cent of times each government was in a losing minority as a proportion of all votes in 2004-09 (1 July 2004 to 30 June 2009) and 2009-15 (1 July 2009 to 1 September 2015).

Figure 1. Per cent of times a member state was on the losing side in the EU



Two things are striking: 1) there was a notable increase in the level of conflict in the Council between 2004-09 and 2009-15; and 2) the UK government was on the losing side a much higher proportion of times in 2009-15 compared to 2004-09 (2.6 per cent in the former period and 12.3 per cent in latter period). The next most frequently “losing” governments, Germany and Austria, were only on the minority side 5.4 per cent of the time in 2009-15. One thing to note, though, is the high level of agreement in both periods. Put the other way round, the UK voted on the winning side 97.4 per cent of the time in 2004-09 and 86.7 per cent of the time in 2009-15.

Digging a bit further into the 2009-15 data, we can see which other governments tend to vote with the UK. The UK's main allies were some of our northern neighbours – Sweden, the Netherlands, and Denmark – while the German government was least likely to vote the same way as the UK. In fact, the UK and German governments voted on opposite sides 16 per cent of the time. In other words, the two governments who were most likely to vote against the majority, the UK and Germany, were invariably in opposition on different votes.

These aggregate patterns might be distorted by the fact that there were more votes on some policy issues than on others, with the UK opposed only in areas that happened to have many votes. Breaking the data down by policy area reveals that the UK voted *against* the majority more frequently on budgetary policies, foreign and security policy, and international development, and voted *with* the majority more frequently on international trade, industry, environment, transport, legal affairs, economic and monetary union, and internal market policies. In most policy areas, though, the UK was the member state most likely to vote against the majority, and significantly more likely than the average government in the EU. However, the UK was not the most oppositional government on internal market, legal affairs, transport, environment, and fisheries.

In short, the official voting records of the EU Council suggest that there was a significant shift in the position of the UK government between 2004-09 and 2009-15. In the latter period the UK was in the minority more often than any other EU government. There is some variance across policy areas, the UK has some powerful allies, and Germany also often votes against the winning majority. Nevertheless, on average, these data suggest that the UK government is less influential in the Council now than it has been in the past.

Nevertheless, there are some important caveats to be aware of when considering evidence from voting records in the Council. First, overwhelmingly the Council decides by consensus, which means that the UK is on the winning majority side almost 87 per cent of the time. Second, the UK government might be more willing than other governments to publically register its opposition to EU decisions. Third, these data do not tell us what went on behind the scenes on each of these issues in the bargaining and preparation of policy positions in the Council working groups. Finally, for a fuller picture this evidence needs to be put together with other evidence from the policy process, such as whether the UK is influential in the other main legislative body: the European Parliament.

2. Connections between Council officials

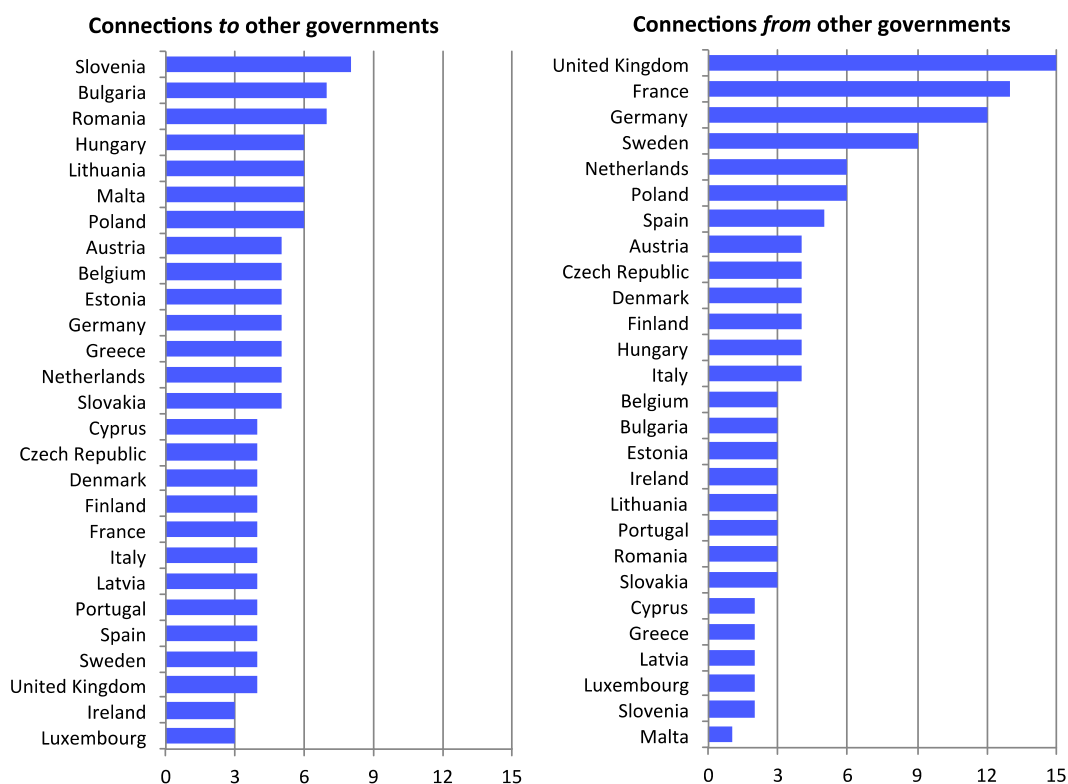
Approximately two-thirds of all decisions taken by the Council under QMV are actually adopted with no government in opposition. This does not mean that conflict has been absent on these issues, but rather that much has gone on in the bargaining behind-the-scenes before a formal vote occurred. As a result, to assess the influence of a member state in the Council it is important to look behind the votes. One way of doing this is to analyse connections between Council officials.

The best data for such an analysis come from 869 interviews by Daniel Daurin and his research team between 2006 and 2012.⁴ The researchers asked a simple question to each member state's official in the same 11 committees and working groups in the EU Council: *"Which member states do you most often co-operate with in order to develop a common position?"* The answers reveal which

governments tend to work together in EU negotiations, and as a result which governments are better connected than others. Also, as the research was conducted in 2006, 2009 and 2012, it is possible to look at whether there have been any major changes since the Eurozone crisis and the growing Brexit debate.

Figure 2 shows the two sides of the connections: 1) how many other governments each government said that they worked with (were *connected to*) on average in each year; and 2) how many other governments mentioned a particular government (were *connected from*). Put together, these two measures give an indication of how much influence an EU member state's officials have in EU negotiations.

Figure 2. Connections in EU Council negotiations



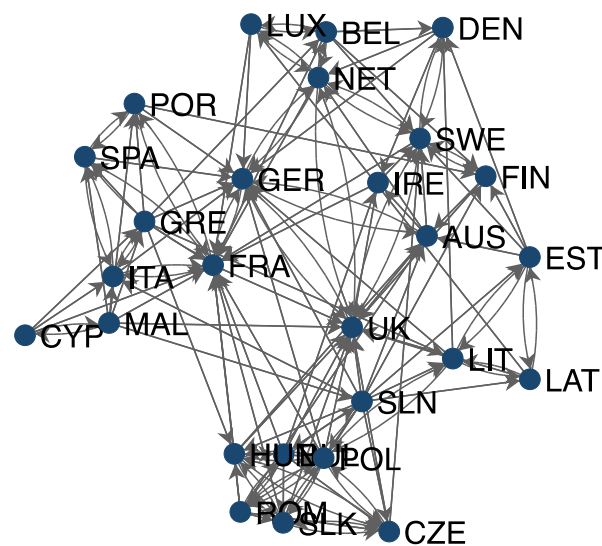
UK officials on average mentioned 4 other governments they co-operated with: France, Ireland, Netherlands and Sweden in 2006; Germany, France, Ireland and Sweden in 2009; and Germany, Netherlands and Sweden in 2012. As the panel on the left shows, the officials of most other member states mentioned a higher number of other governments with which they co-operate. This might reflect the fact that the UK officials feel confident that they can achieve their aims without needing the support of many others. For example, the officials from the other large member states (Germany, France, Italy and Spain), with the exception of Poland, also mentioned only a small number of other governments, whereas the officials of many of the smaller member states named a higher number.

The centrality of the UK, along with the other large member states, is clearly revealed in the number of officials from other EU governments who mentioned the UK (in the figure on the right). Measured this way round, the UK's officials are the most well connected of all the EU's 28 member state governments. In fact, the officials of only 6 other governments (out of 26 others) *did not* mention the UK as the main government they co-operated with in their working group in either 2006, 2009 or 2012: namely, Greece, Italy, Luxembourg, Portugal, Cyprus, and Romania. Not surprisingly, France and Germany, as the other two most powerful member states, were identified as the second and third most mentioned by officials from other governments. Interestingly, though, amongst some of the smaller member states, several of the UK's traditional allies (Sweden, the Netherlands, and Denmark) are also central players in EU negotiations.

Looking at the data from 2006, 2009 and 2012 separately reveals that the UK's position has been stable across time, both in terms of connections *from other governments* to the UK as well as UK connections *to other governments*. If anything,

the number of governments connecting to UK officials increased between 2006 and 2012. The main change between 2006 and 2012 was the increase in the number of connections made by officials from some of the newer member states (such as Slovenia, Romania, Malta and Poland) to governments from the other member states.

Figure 3. EU Council negotiation networks



Finally, whereas these numbers reveal how many connections each government has, they do not show which groups of governments work together. To illustrate this, Figure 3 shows the ‘network’ of connections in 2012. Here, the arrows show the direction of a connection from one government to another, and the positions of the governments are determined by how many connections each government has as well as who they are connection to: with the more connected governments closer to the centre, and governments with similar connection patterns located closer together. This figure clearly shows the centrality of the UK

in EU negotiations. Germany and France are also close to the centre, but UK officials appear to be the best connected of all the member states' officials. And, again, the data from 2006 and 2009 show the same picture.

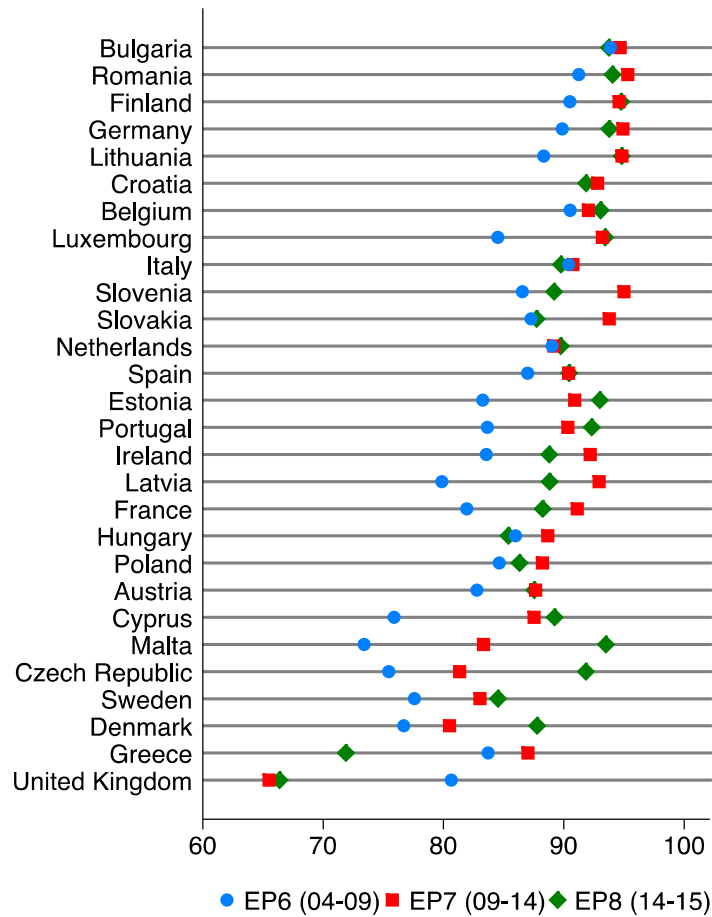
In other words, when it comes to negotiations behind the scenes, before votes take place and before laws are adopted, the data suggest that the UK government is right at the heart of EU policy-making, and certainly at the top table, alongside Germany and France. The data also suggest that the Eurozone crisis has not had any noticeable effect on the centrality of the UK in EU bargaining.

3. Voting in the European Parliament

The Council is only half of the EU's bicameral legislature, of course. The other half is the European Parliament, which now has the power to amend and block EU laws in almost all policy areas. So, how influential are UK Members of the European Parliament?

A good starting point is the MEPs' voting records. There are many to analyse with 6,149 such votes in the 2004-09 session (EP6), 6,961 in 2009-14 (EP7), and 2,306 between June 2014 and December 2015 in the current session (EP8).⁵ From these records we can determine whether UK MEPs and parties tend to be on the winning or losing side in votes, and whether our MEPs and parties vote with or against the European political groups to which they belong.

Figure 4. Per cent of times a member state's MEPs are on the winning side in the European Parliament



Note: A member state's delegation of MEPs was calculated as being on the 'winning side' in a vote if the plurality of the MEPs from the member state voted the same way as the majority of all MEPs in the vote.

To start with, Figure 4 shows the percentage of times each member state's MEPs were on the 'winning side' in all votes in EP6, EP7 and EP8. The first thing to note is that the average is high: about 85 per cent. This is because many votes are highly consensual. Nevertheless, there is significant variation between the member states: from 93 per cent for Finnish MEPs (and even higher for Bulgarian and Romanian MEPs, who joined in 2007), to only 71% for British MEPs. Also,

while British MEPs were reasonably successful in EP6, since 2009 they have been less likely to be on the winning side than the MEPs from *any* other member state.

But, voting in the European Parliament is mainly along political group lines not national lines, with higher group voting cohesion than the Democrats and the Republicans in the US Congress.⁶ Hence, what determines whether an MEP is on the winning or losing side is which political group she belongs to and whether she follows her group's voting positions. Also, because coalitions in the European Parliament tend to form along left-right lines, the centrist group in the European Parliament – the Alliance of Liberals and Democrats for Europe (ALDE) – is often pivotal in deciding whether a winning majority is either on the left or on the right. As a result, ALDE was on the winning side in votes almost 90 per cent of the time in EP6, EP7 and so far in EP8. The two largest groups either side of ALDE – the European People's Party (EPP) and the Socialists and Democrats (S&D) – also play a dominant role (and are on the winning side almost as frequently as ALDE), while the political groups further to left – the European United Left/Nordic Green Left (EUL/NGL) and the Greens/European Free Alliance (G/EFA) – and further to the right – the European Conservatives and Reformists (ECR), Europe of Freedom and Direct Democracy (EFDD), and Europe of Nations and Freedoms (ENF) – are significantly less likely to win votes.

The high level of political group cohesion and the dominance of the three centrist groups have implications for British MEPs. Of the British MEPs, only the Labour Party (in S&D) and the Liberal Democrats (in ALDE) sit in one of the three dominant groups. The Conservatives left EPP in 2009, to form ECR. ECR (which also includes Jim Nicholson from the Ulster Unionist Party (UUP)) was on the winning side only 56 per cent of the time in EP7 and 58 per cent so far in EP8.

Also, the Eurosceptic group, where UKIP sits, have voted against the majority in most votes since 2004, while G/EFA, where the Greens, SNP and Plaid Cymru sit, have won in only 64 per cent of votes since 2004. In addition, Labour and Lib Dem MEPs have lost seats while the Conservatives and UKIP have won seats. As a result, the number of UK MEPs in the three main groups (EPP, S&D and ALDE) has fallen from 31 out of 75 MEPs (41 per cent) in 2004 to 21 out of 73 (29 per cent) in 2015. Not surprisingly, then, UK MEPs are more marginalised in votes than they were before.

In addition, within their political groups, UK MEPs often vote against their groups' positions. In 2009-14, the Conservatives, who dominated ECR, voted with the group majority in almost every vote. In 2004-09, however, when the Conservatives (together with a UUP MEP) were in the EPP, they only voted with the EPP majority 74 per cent of the time. This raises an intriguing question: to what extent is being the dominant party in a marginalised group (ECR) better than being a marginalised party in a dominant group (EPP)? Meanwhile, in 2009-14, Labour MEPs often vote against the S&D position, as did UKIP in EFD, and SNP in G/EFA. Only the Lib Dems and Greens were more likely to follow group instructions than the average members of their groups.

The combination of sitting in a marginalised group (ECR and EFDD) plus voting against the position of the majority of a group (Labour in S&D) means that UK parties are considerably less likely to be on the winning side than other national parties. The only exception are the UK Liberal Democrats, who were an influential party in the pivotal group before they lost all but one of their MEPs in 2014. Interestingly, though, some parties from the UK's allies are also relatively marginalised. The Swedish Conservatives are less likely to win votes than any

other major party in the EPP, while the Danish and Swedish Social Democrats are even less likely to win votes than Labour.

Overall, European Parliament voting records suggest that the UK is in a weak position in this branch of the EU's legislative system. Most British MEPs do not sit in the groups that dominate the European Parliament agenda. And even when they do sit in these groups – such as the Conservatives in EPP before 2009, and Labour in S&D – British MEPs are often opposed to the majority positions of these groups. As a result, British MEPs often find themselves on the losing side in key votes.

4. Key positions in the European Parliament⁷

As with votes in the Council, the roll-call voting records in the European Parliament do not tell the full story of power and influence in this institution. Another key issue is whether UK MEPs capture some of the key positions of power in the European Parliament, such as committee chairs or rapporteurships?

The European Parliament has two main types of power-positions. First, there are the top offices: the Bureau members, the political group leaders, and the chairs of the 22 committees. The executive Bureau comprises the Parliament's President, the 14 Vice-Presidents (who chair the plenary sessions), and the 5 Quaestors (who look after the welfare of MEPs). The political group leaders together determine the plenary agenda, while the committee chairs shape their committees' agendas and play a key role in legislative negotiations with EU governments and the Commission in their respective policy areas. These top

offices are assigned at the beginning of each 5-yearly term and re-assigned half-way through a term.

Second, there are the *rapporteurs*. A *rapporteur* is an MEP chosen by his or her committee to write a report on a piece of legislation, the EU budget or another issue. The *rapporteur* shepherds the report through the committee and the plenary, and leads any negotiations with the EU governments and the Commission. MEPs and political groups compete for these powerful positions, as a *rapporteur* can usually influence the amendments the European Parliament proposes and hence the eventual shape of the EU law – rather like a ‘sponsor’ of a bill in the U.S. Congress.

British MEPs have held several ‘top offices’ since 2004. Two have been Vice-Presidents (Edward McMillan-Scott and Diana Wallis), 3 have been Quaestors (Jim Nicholson, Bill Newton-Dunn, and Catherine Bearder), 4 have been political group leaders (Graham Watson, Martin Callanan, Nigel Farage, and Syed Kamall), and 11 have been committees chairs (Giles Chichester, Philip Whitehead, Arlene McCarthy, Neil Parish, Sharon Bowles, Malcolm Harbour, Brian Simpson, Sharon Bowles, Claude Moraes, Vicky Ford, and Linda McAvan). In addition, a British MEP has chaired the powerful Internal Market committee continuously since 2004, and in the current Parliament, British MEPs chair 3 key committees: Internal Market and Consumer Protection (Vicky Ford), Civil Liberties and Justice and Home Affairs (Claude Moraes), and (International) Development (Linda McAvan).

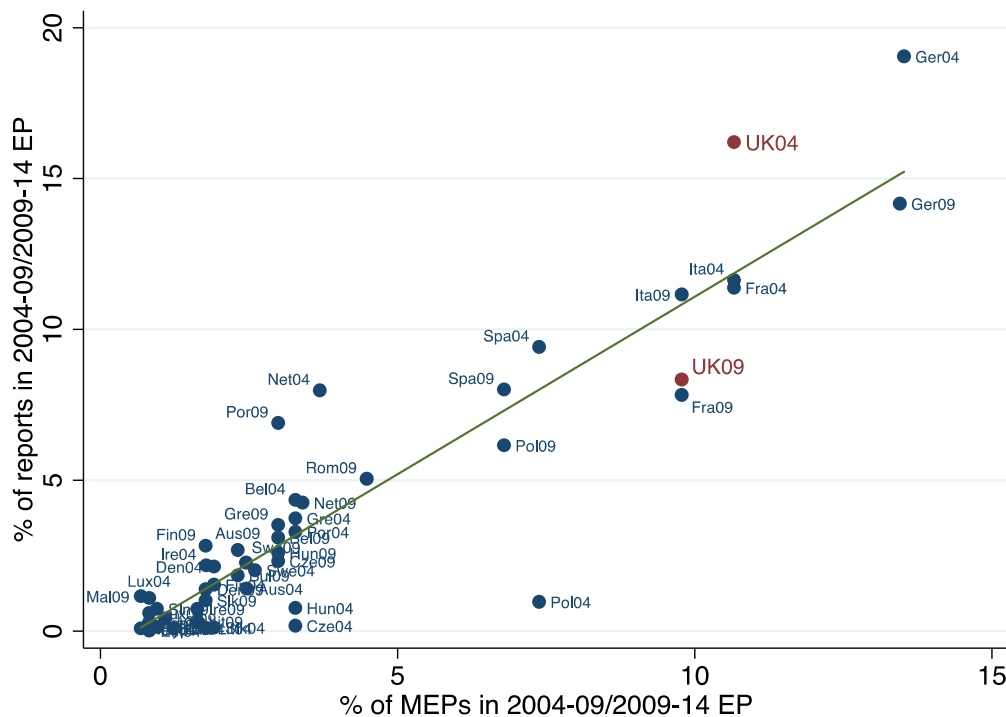
But how does this compare to other member states? One way of assessing this is to compare the per cent of MEPs each member state had in each two-and-a-half year period (2004-06, 2007-09, 2009-11, 2012-14, 2014-16) with the per cent of top offices their MEPs held. In general, since 2004, when compared to all

member states, the UK has been slightly ‘over-represented’, in that there have been a larger proportion of British MEPs in top offices than British MEPs as a proportion of all MEPs. Nevertheless, all larger member states win more top offices than smaller member states, even relative to their number of MEPs, and the largest member state (Germany) does particularly well. This is because when a political group wins a top office, this office almost always goes to an MEP from a larger party delegation with the group, which is usually a party from one of the larger member states.

So, the fairest comparison is between the larger member states. Compared to the other larger member states, the UK is slightly ‘under-represented’ in the top offices in the European Parliament. The UK won more top offices than most other large member states in 2009-11, but fewer top offices than the other larger member states in every other period since 2004.

Turning to *rapporteurships*, figure 5 shows the proportion of reports relative to the proportion of MEPs from each member state in the 2004-09 and 2009-04 terms.⁸ MEPs from the older member states, including the UK, are more likely to win *rapporteurships* than MEPs from the member states who joined in the 2000s. In fact, UK MEPs (co-)authored 224 reports in 2004-09 and 180 in 2009-14. These included reports on important pieces of legislation, such as the EU Directive on Local Loop Unbundling, which liberalised the EU internet service-provider market, and on which Nick Clegg MEP was able to shape the policy in a more pro-consumer direction. In general, in terms of report-writing, UK MEPs were ‘overrepresented’ in 2004-09 and slightly ‘underrepresented’ in 2009-14.

Figure 5. Over/under representation of *rapporteurships*



However, not all *rapporteurships* are of equal value. Authoring a report on a piece of legislation where the European Parliament has full legislative power is clearly more important than authoring a report on an issue on which the Parliament has little power. A slightly different pattern emerges when looking at reports on ‘co-decision’ dossiers in 2009-14: on all the legislation on which the European Parliament had equal power (alongside the 28 member state governments represented in the Council of the European Union) to amend and block EU laws. In this term, when it came to key pieces of EU law, UK MEPs authored more reports than the MEPs from every other member state except Germany.

In short, UK MEPs have captured many powerful agenda-setting positions. They have been Vice-Presidents, political group leaders, and chairs of important

committees. UK MEPs have also won *rappoteurships* on key legislation, which has enabled them to shape EU law. Moreover, UK MEPs have not been 'underrepresented' relative to the MEPs from the other big member states. And all this has been despite the growing number of UKIP MEPs, who have not competed for many key offices or *rappoteurships*.

6. Conclusion

Overall, then, the evidence on UK influence in the EU's two main legislative institutions is mixed. In the Council of the European Union, in recent years the UK government has been outvoted more often than any other EU government. Put another way, the current Conservative government and the previous Conservative-Liberal Democrat government were outvoted more often than were the preceding Labour governments. Nevertheless, evidence on connections between officials in the Council working groups suggests that UK policy-makers remain at the centre of decision-making behind the scenes: with more officials from more member states saying that they talk to UK officials than to the officials of any other member state.

Meanwhile, in the European Parliament, since 2009 UK MEPs are more likely to be on the losing side than are the MEPs of any other member state. This is mainly due to the fact that since the Conservatives left the EPP, and with the increase in the number of UKIP MEPs, the number of British MEPs in the three main political groups is now lower than for any other large member state. However, British MEPs are still able to win some positions of power, such as key committee chairs and *rappoteurships*.

The link between these day-to-day processes and broader EU developments is often underestimated. In particular, when David Cameron, in his bid for the Conservative Party leadership in 2005, made a commitment to leave the EPP-ED group, he probably underestimated the consequences of such a move. Most Conservative MPs and political commentators in London probably assumed that leaving the EPP group would be largely symbolic, with no major political consequences. But, leaving the main centre-right grouping angered many Conservative allies, including Angela Merkel (German Chancellor), Fredrik Reinfeldt (Swedish Prime Minister), and Donald Tusk (then Polish Prime Minister and now European Council President). More significantly, leaving the EPP meant that the UK Conservative Prime Minister was absent from some key EPP summit meetings where major decisions were taken, such as the deal on the Fiscal Compact Treaty in 2011, the decision to propose Jean-Claude Juncker for Commission President in 2014, and the draft EU-UK deal in 2016.

In short, if the UK public vote to remain a member of the EU, the UK government and the leaderships of Britain's parties will need to re-engage with Brussels politics if they want to maximise their influence in the EU Council, in the European Parliament, and on the wider political agenda of the EU. The Conservatives may have to reconsider their relationship with the EPP – with perhaps a new EPP-ECR alliance – and the Labour Party will need to decide whether they can once again take a more central role in the Socialists and Democrats. Ultimately, being isolated from these two political forces means being marginalised from mainstream EU politics.

Notes

¹ Research for this part of the article was conducted in collaboration with Sara Hagemann.

² For disclosure, I am one of the co-founders and Chairman of VoteWatch.eu.

³ Cf. S. Hagemann and J. De Clerck-Sachsse, *Old Rules, New Game, Decision-Making in the Council of Ministers after the 2004 Enlargement*, Brussels, Centre for European Policy Studies, 2007; F. Hayes-Renshaw, W. Van Aken and H. Wallace, 'When and Why the EU Council of Ministers Votes Explicitly', *Journal of Common Market Studies*, vol. 44, 2006, pp. 161-194; and M. Mikko, 'Roll Call Analysis of Voting in the European Union Council of Ministers After the 2004 Enlargement', *European Journal of Political Research*, vol. 48, 2009, pp. 840-857.

⁴ For example, D. Naurin and R. Lindahl, 'Out in the cold? Flexible Integration and the Political Status of Euro Opt-outs', *European Union Politics*, vol. 11, 2010, pp. 485-509.

⁵ Not all votes in the European Parliament are by 'roll-call'. Since 2009 all 'final votes' on legislative bills have been by roll-call, and a roll-call can be requested on any other vote by a political group or at least 40 MEPs (out of 751). These are low thresholds, which means that practically all important issues are held by roll-call.

⁶ S. Hix, A. Noury and G. Roland, *Democratic Politics in the European Parliament*, Cambridge, Cambridge University Press, 2007.

⁷ Research for this part of the article was conducted in collaboration with Giacomo Benedetto.

⁸ These rapporteurships data are from William Daniel, and Steffen Hurka, Michael Kaeding and Lukas Obholzer. See W. Daniels, *Career Behaviour and the European*

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